



JON M. HUNTSMAN, JR.
Governor

GARY R. HERBERT
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Oil, Gas and Mining

JOHN R. BAZA
Division Director

April 2, 2009

CERTIFIED RETURN RECEIPT REQUESTED
7004 2510 0004 1824 9689

Elliot Finley, Resident Agent
Hiawatha Coal Company
P.O. Box 1240
Huntington, Utah 84528

Peter W. Guyon
Attorney for Hiawatha
10 Exchange Place #614
Salt Lake City, UT 84111

Russel S. Walker
Attorney for C. W. Mining
265 East 100 South #300
Salt Lake City, UT 84111

F. Mark Hansen
Attorney for Standard Industries
431 North 1300 West
Salt Lake City, UT 84116

Lon A. Jenkins
Counsel for Cumberland
Jones Waldo, Holbrook & McDonough
170 South Main Street, #1500
Salt Lake City, UT 84101

Kenneth A. Rushton, Trustee
99 West Main Street, #202
Lehi, UT 84043

Michael N. Zundel
Chris Jones
Prince, Yeates & Geldzahler
175 East 400 South #900
Salt Lake City, UT 84111

SUBJECT: Decision regarding application for Permit Transfer for the Bear Canyon Mine
C/015/0025, Task ID #3215

Dear Sirs:

On August 4, 2008, the Division received an application from Hiawatha Coal Company, Inc. (Hiawatha) for transfer of C.W. Mining's permit No. C/015/0025 (Bear Canyon Mine) to Hiawatha Coal Company. Notice of the intent to transfer the permit was made in the Emery County Progress on July 1, 2008, which was well before the Division received the transfer application. Thereafter, on August 8, 2008 the Division was advised of a bankruptcy proceeding and of the issuance of an order from the bankruptcy court restricting C.W. Mining from taking further actions to complete the transfer prior to notice and further hearings by the court.



EXHIBIT "A"

Page 2
Permit Transfer
April 2, 2009

While the bankruptcy proceedings continued, the Division proceeded to review Hiawatha's application. After several iterations, the required ownership and control information was provided. Since November 20, 2008, or earlier Hiawatha was advised that it must obtain a bond prior to Division approval and transfer of the permit. Despite numerous demands and extensions, no bond was provided and consequently Cessation Order #10034 was issued on February 5, 2009.

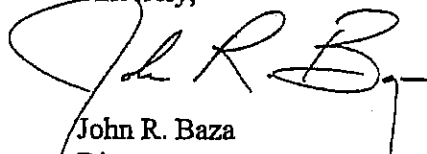
The Cessation Order allowed for abatement by Hiawatha in the event that it was able to provide the required surety, and if the Division approved transfer of the permit. The CO provided that such an approval of the transfer by the Division, if any, would be subject to all further orders of the bankruptcy court granting or denying approval of transfer of the permit from C. W. Mining Co. to Hiawatha.

On March 18, 2009 the bankruptcy court issued its Memorandum Decision in which it determined that the purported June 24, 2008 sale to Hiawatha was in violation of the court's prior Orders and that the assets of C.W. Mining, including the operating agreement and the permit, are property of the bankruptcy estate and subject to the trustee's rights to liquidate the assets of C.W. Mining and/or to assume or transfer the operating agreement and permit.

It is no longer possible for Hiawatha to complete the sale and transfer of the assets and mine permit pursuant to application submitted in furtherance of the June 24, 2008 sale agreement. Accordingly the Division does hereby deny the application for transfer of the Bear Canyon permit # C/015/0025 from C.W. Mining to Hiawatha.

You have the right to appeal this decision denying the transfer of the permit pursuant to Utah Code §40-10-30(1) and R645-300-211 Utah Administrative Code by filing a request for agency action in accordance with the Rules of the Board within 30 days of the notice of this decision.

Sincerely,



John R. Baza
Director

JRB/sqs
O:\015025.BC\NF\FINAL\WG3215\hiawatha decision on transfer of permit.doc